IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

MFA.No. 825 of 2002()

OPMV.966/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
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APPELLANT: PETITIONER IN O.P. (M.V).

K.T. VARGHESE, S/O. THOMANKUTTY,
KADAMPADAN HOUSE, KUTTICHIRA P.O.,
MUKUNDAPURAM.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS: RESPONDENTS IN O.P. (M.V).

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1. P.P.P. BABY, S/O. POULOSE,
PARIYADAN HOUSE, KUTTICHIRA P.O.,
VIA. CHALAKUDY.

2. SHIJI GEORGE, S/O. GEORGE,
PUTHUKUNNATH HOUSE, KUTTICHIRA P.O.

3. THE ORIENTAL INSURANCE COMPANY,
SOUTH JUNCTION, CHALAKUDY.

BY ADV. SRI.SHEEJO CHACKO
SRI.M.N.MANOJ
DR.ELIZABETH VARKEY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 03/08/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A No. 825 of 2002

Dated this the 3rd day of August 2007

JUDGMENT

The petitioner/ claimant in O.P (MV) No. 966/1996 on the file of the Motor Accident Claims Tribunal, Irinjalakuda is the appellant. The appeal is filed against an award passed by the Tribunal by which the appellant was awarded a compensation of Rs. 32,000/- On 28-1-1996 at 4.30 pm the appellant sustained injuries in a Motor vehicle accident . He filed a petition for claiming compensation impleading the owner, driver and Insurer. The owner and driver disputed the negligence and the quantum of compensation awarded. The insurer also disputed the negligence as well as the quantum of compensation claimed. The Tribunal found that the appellant is entitled to get Compensation. The Tribunal fixed compensation due to the appellant as 32,000/- and directed the insurer to pay that amount.

2. The finding of the Tribunal that the appelant is entitled to get compensation and the insurer is liable to pay the compensation have become final and conclusive. So the only question arising for consideration whether the appellant is entitled to get any additional compensation. The appellant sustained fracture to both bones of the forearm left hand. Internal fixation was done. It was removed on 8-5-1997. But the Tribunal has only awarded an amount of Rs. 4,000/- for

pain and suffering.

3. I am of the view that the Tribunal ought to have awarded the appellant Rs. 10, 000/- towards the head of pain and suffering . So I award an amount of Rs.10,000/- on the count of pain and suffering. So the appellant is entitled to get an additional amount of Rs. 6,000/- on that count. The Tribunal awarded Rs. 1,750/- for the loss of amenities, discomfort etc. I am of the view that it is also inadequate and an additional amount of Rs. 4,000/- is granted to that head. So the appellant is entitled to get an additional compensation of Rs. 10,000/- which will carry interest at the rate of 6% per annum . from the date of petition till the date of realisation.

4. In the result the appeal is allowed in part. An award is passed in favour of the appellant allowing him to recover an additional amount of Rs. 10,000/- as compensation with 6% interest , from the date of petition till the date of realisation. The insurer is directed to deposit the amount. On deposit the appellant can withdraw the entire amount.

K.PADMANABHAN NAIR,JUDGE

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